



Certificates of Completion

In its 2000 session, the Wyoming Legislature created new opportunities, procedures, and standards for voluntary remediation of contaminated sites. These provisions, enacted as Articles 16, 17, and 18 of the Wyoming Environmental Quality Act and implemented by the Wyoming Department of Environmental Quality (DEQ), will govern future environmental cleanups in Wyoming.

The Voluntary Remediation Program (VRP) establishes a number of new opportunities for owners, operators, and prospective purchasers of environmentally suspect, contaminated, and formerly contaminated property to obtain a liability assurance from DEQ. This Fact Sheet summarizes the requirements and procedures for one type of liability assurance: the certificate of completion.

1. What is a certificate of completion?

According to §35-11-103(g)(ii), a certificate of completion is defined, in part, as “a certification issued by the director [of DEQ] stating that all remediation requirements for a site have been successfully implemented or satisfied.” In general, a certificate of completion documents DEQ’s determination that, at the time the certificate is issued, all remediation requirements necessary to protect human health and the environment have been successfully completed and that DEQ currently has no plans to further evaluate the site or to impose additional remediation requirements.

DEQ expects that certificates of completion will be issued most often for sites that have been cleaned up according to the terms and conditions in an approved remedy agreement.

Note that the Wyoming Legislature chose to call this document a “certificate of completion” rather than a “no further action” determination. Certificates of completion issued under the VRP generally are analogous to the types of “no further action” determinations that are made in many other states and to the “comfort letters” issued under some federal cleanup programs.

2. Are there exceptions to the general rules for certificates of completion?

Yes. There are three circumstances under which DEQ might issue a conditional certificate of completion.

First, DEQ may choose to issue a conditional certificate of completion where a monitored natural attenuation remedy is approved and DEQ determines that no exposure to contaminated media is reasonably expected to occur during the period of monitored natural attenuation. In these circumstances, the certificate of completion will be conditioned on the Volunteer’s continued

compliance with the monitoring requirements associated with the monitored natural attenuation remedy, site uses not changing during the period of natural attenuation, and confirmation sampling to show that cleanup levels are achieved when the period of natural attenuation is complete.

Second, DEQ may choose to issue a conditional certificate of completion where alternative (i.e., restricted use) soil cleanup levels are approved in conjunction with a use control area determination. Under §35-11-1609, use control areas can be approved by local governments based on a petition from a site owner. In these circumstances, the certificate of completion will be conditioned on continued compliance with the requirements of the use control area.

Finally, DEQ may choose to issue a conditional certificate of completion where a technical impracticability determination is made for cleanup of soil or water in accordance with §35-11-1605(d), provided the Volunteer achieves alternative cleanup levels established in the technical impracticability determination. In these circumstances, the certificate of completion will be conditioned on the Volunteer's continued compliance with any controls on human or environmental exposure to contaminated media established as part of the technical impracticability determination.

3. Can DEQ require additional work after a certificate of completion is issued?

Only under certain circumstances. DEQ may reopen a certificate of completion based only on the provisions in §35-11-1610. These are:

- The site owner fails substantially to comply with the terms and conditions of the certificate. Contamination is discovered that was present on the site but was not known to the owner or the Department on the date the certificate was issued.
- An imminent and substantial endangerment to human health or the environment is discovered.
- DEQ determines that the site remedy has failed to meet remediation objectives; or
- DEQ determines that the certificate was based on fraud, material misrepresentation, or failure to disclose material information.

In addition, like other liability assurances established by the VRP, a certificate of completion does not limit the DEQ's ability to undertake enforcement actions related to complaints under Article 7 of the Environmental Quality Act (EQA) (see §35-11-701, et. seq.), or to impose penalties for violations of the EQA under Article 9 (see §35-11-901 et. seq.). Finally, certificates of completion do not relieve the Volunteers from applicable environmental permitting requirements, such as permitting requirements for hazardous waste management facilities under RCRA Subtitle C.

4. Will a certificate of completion cover my entire site?

You may apply for a certificate of completion for your entire site, for only a particular area on a site, a particular set of contaminants, or a particular environmental medium. Partial certificates of completion will contain disclaimers explaining that the coverage of the liability assurance is limited

to the specific area, contaminants, or media addressed and that DEQ's ability to require additional remediation is not limited for other areas, contaminants, or media.

5. What information do I have to provide to DEQ to show that my site qualifies for a certificate of completion?

A certificate of completion records DEQ's determination that all remediation requirements for a site have been successfully implemented or satisfied. Because of this, DEQ expects that, before a certificate of completion is issued, site investigations and cleanups will be thoroughly documented, and sampling and analysis will be carried out to ensure that cleanup levels are achieved throughout the area covered by the certificate.

Because every cleanup site is different, the exact information necessary to support a certificate of completion will vary based on site-specific conditions. However, at a minimum, DEQ expects that a Volunteer should submit the following types of information:

- Information specifically documenting the site for which the Volunteer is requesting the certificate of completion. If the certificate of completion is being requested for only a portion of a larger site, or only specific releases, a specific set of contaminants, or a specific environmental medium, it is necessary to provide a detailed description of the portion of the site, releases, contaminants, or medium to be considered. This should include a map clearly illustrating the site (or portion of a site) for which the certificate of completion is being requested.
- Information documenting that the site (or portion of a site) for which the Volunteer is requesting a certificate of completion has been characterized in accordance with the site characterization performance criteria. This will include information on the site, site history and site setting, known and potential sources of contamination, the nature and distribution of contaminants, media properties that are likely to influence contaminant distribution or the ability to implement remedial alternatives, and human and ecological receptors. For more information on site characterization, see Fact Sheet #8 *Site Characterization*.
- If a cleanup has been completed, information documenting that a remedy that meets the VRP remedy standards has been selected and implemented for the site (or portion of a site) and information, including sampling and analysis, documenting that cleanup levels have been achieved at points of compliance. Sampling and analysis to confirm that cleanup levels are achieved at points of compliance should be carried out according to the guidelines for confirmation sampling. For more information on cleanup levels for unrestricted site uses see Fact Sheet #11 *Risk Assessment*. For more information on confirmation sampling, see Fact Sheet #10 *Soil Confirmation Sampling Guidelines*.
- If a certificate of completion is being requested because a site has been investigated and a Volunteer believes no cleanup is necessary, information documenting that the site (or portion of a site) for which the Volunteer is requesting a certificate of completion has been characterized in accordance with the site characterization performance criteria and that contaminants of concern either have not been released or are below cleanup levels.

- If a certificate of completion is being requested for a site that is covered by a monitored natural attenuation remedy, information documenting the remedy (including monitoring requirements) and describing any activities the Volunteer will carry out to ensure that site uses do not change during the period of monitored natural attenuation. For more information on monitored natural attenuation, see §35-11-1605(d) and Fact Sheet #26 *Monitored Natural Attenuation for Soil and Groundwater*.
- If a certificate of completion is being requested for a site that is covered by a use control area, information documenting that cleanup levels have been achieved and any ongoing activities the Volunteer will carry out to maintain site use restrictions and other requirements of the use control area over time. For more information on use control areas, see §35-11-1609 and Fact Sheet # 23 *Institutional Controls, Engineering Controls and Use Control Areas*.
- If a certificate of completion is being requested for a site that is covered by a technical impracticability determination, information documenting that the alternative cleanup levels established in the technical impracticability determination have been achieved and a description of the activities the Volunteer will carry out to maintain any long-term controls on human or environmental exposure to contaminated media over time is required. For more information on technical impracticability determinations, see §35-11-1605(d).

Many Volunteers will have already provided DEQ with some of these types of information during the course of their cleanup. You do not need to re-submit new copies of information already submitted to DEQ with your application for a certificate of completion. Instead, simply reference the reports, documents, or other information in your application. To expedite DEQ review, when referencing previously submitted information, please include the name of the report or other document, the date you submitted it to DEQ, and, if appropriate the pages or sections that are pertinent to your certificate of completion application.

6. Do I have to be in the VRP before I can get a certificate of completion?

Yes, only participants in the VRP are eligible for certificates of completion.

7. How do I request a certificate of completion?

Certificates of completion must be requested from DEQ in writing.

Two copies of your written request should be sent to:

Wyoming Department of Environmental Quality
Attention: Voluntary Remediation Program
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Your request should clearly identify the site for which you are requesting a certificate of completion and should include the information discussed in question #5, above.

8. Is there anything I have to do once I receive a certificate of completion?

Yes, in accordance with §35-11-1607(j) any person who receives a certificate of completion under the VRP, must record and file a copy in the office of the county clerk with the deed for the site no later than ten business days after the date the certificate of completion is signed.

9. How can I get more information about the VRP?

To learn about VRP sites that may exist in your community, obtain copies of other VRP Fact Sheets/guidance documents, get answers to your questions, or volunteer for the program, contact DEQ at (307) 777-7752 or visit the VRP website at: <http://deq.state.wy.us/volremedi/index.asp>.

The VRP website includes all of the Fact Sheets and other guidance documents for the VRP. This website is updated frequently and includes the latest information about DEQ's progress in developing guidance, policy, and other supporting documents for the VRP.